IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1978

No. 78-49

SOUTHERN RAILWAY COMPANY,
and
LOUISVILLE AND NASHVILLE RAILROAD COMPANY,
Petitioners,

v.

BUFORD ELLINGTON, GOVERNOR, et al.,
Respondents.

BRIEF OF RESPONDENTS

In Opposition to Petition for Writ of Certiorari to the Supreme Court of Tennessee

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BRIEF OF RESPONDENTS

In Opposition to Petition for Writ of Certiorari to the Supreme Court of Tennessee

OPINIONS BELOW

The opinion of the Chancery Court for Davidson County, Tennessee, was filed January 28, 1976, and is unreported. A correct copy of this opinion is included in the appendix to the petition. (Appx. 1a-17a). The opinion of the Court of Appeals of Tennessee was filed February 25, 1977, and is unreported. A copy of this opinion is included in the appendix to the peti-

tion. (Appx. 25a-36a). Orders of the Supreme Court of Tennessee denying petitions for writs of certiorari to the Court of Appeals (with concurrence in results only) as filed by petitioners Southern Railway Company and Louisville and Nashville Railroad Company, were filed on January 16, 1978, and January 18, 1978, respectively. Correct copies of these orders are included in the appendix to the petition. (Appx. 37a, 38a). Orders of the Supreme Court of Tennessee denying petitions to rehear the denial of the petitions for writs of certiorari of each of the petitioners were filed on April 10, 1978. Correct copies of these orders are included in the appendix to the petition. (Appx. 39a, 40a).

JURISDICTION

The jurisdictional requisites are adequately set forth in the petition.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The constitutional provisions involved are the equal protection and due process clauses of the fourteenth amendment to the United States Constitution, and Article 2, Section 28 of the Tennessee Constitution, printed in Appendix H and Appendix I to the petition.

The statutes involved are Chapter 325, 1967 Tennessee Public Acts (printed in pertinent part in Appendix J to the petition), and Chapters 326 and 328, 1967 Tennessee Public Acts (printed in pertinent part in Appendix A and Appendix B hereto, respectively).

QUESTIONS PRESENTED

Respondents are dissatisfied with the petitioners' presentation of the questions involved, and, therefore, pursuant to Rule 40 (3) of the Supreme Court Rules, presents the questions as follows:

1. Where provisions of a state's constitution are interpreted as requiring uniformity in property taxation without classification, is a method established by legislation to accomplish an orderly removal within a reasonable time of the effects of informal but long-standing classification practices in tax administration constitutionally permissible under the equal protection clause of the fourteenth amendment even though that legislative method retains vestige of the tax classification practices during the transition period?

2. Is the Supreme Court of Tennessee required, as a matter of federal due process, to review the merits of a holding of an intermediate appellate court based on procedural grounds where the Supreme Court of Tennessee concurs only in the results of that holding?

ARGUMENT

I

A Method Which Effects an Orderly Transition From an Unconstitutional System to a Constitutional System Is Not Necessarily Constitutionally Impermissible Itself Even Though That Method Retains Vestiges of the Former System.

A. Disruptions occasioned by drastic changes in long-established practices have been recognized by courts as legitimate reasons for undertaking orderly, rather than precipitate, transitions from such practices to others which may be required to meet constitutional standards:—

There is substantial authority for permitting an existing system or vestiges of an existing system to continue after a declaration of unconstitutionality in order to provide for an orderly transition from an unconstitutional to a constitutional system, especially where the existing system is deeply embedded and long-standing. See, *e.g.*, *Brown v. Board of Education*, 349 U.S. 294 (1955) (school desegregation); *Serrano v. Priest*, 5 Cal.3d 584, 96 Cal. Rptr. 601, 487 P.2d 1241 (1971) (public school financing); *Robinson v. Cahill*, 118 N.J. Super. 223, 287 A.2d 187 (1972) (public school financing). *Swift v. Township of Middletown*, 23 N.J. 580, 130 A.2d 15 (1957) (property taxation). In *Serrano v. Priest*, *supra*, the California Supreme Court said:

> "We deem it appropriate to point out for the benefit of the trial court on remand . . . that if, after further proceedings, that court should enter final judgment determining that the existing system of public school financing is unconstitutional and invalidating said system in whole or in part, it may properly provide for the enforcement of

> the judgment in such a way as to permit an orderly transition from an unconstitutional to a constitutional system of school financing. As in the cases of school desegregation . . . and legislative reapportionment . . . a determination that an existing plan of governmental operation denies equal protection does not necessarily require invalidation of past acts undertaken pursuant to that plan or an immediate implementation of a constitutionally valid substitute."

96 Cal. Rptr. at 626, 487 P.2d at 1266.

Similar considerations have been made even where the unconstitutionality developed as a result of a failure to follow precribed procedures, as in cases involving legislative reapportionment. *E.g.*, *Reynolds v. Sims*, 377 U.S. 533 (1964) (although Alabama Constitution required dicennial reapportionment, last reapportionment of Alabama legislature occurred in 1901). See also *Silver v. Brown*, 63 Cal.2d 270, 46 Cal. Rptr. 308, 405 P.2d 132 (1965).

In *Switz v. Township of Middeltown, supra*, the New Jersey Court was faced with a property tax issue not unlike the issues presented by petitioners in the Tennessee Courts. The Court in that case modified an order requiring assessment of township land at full and fair value so that the order would not apply for two ensuing tax years, thereby affording the New Jersey legislature an opportunity to provide required administrative procedures. The Court said:

> "The general disregard of the full true value standard has given rise to problems that cannot be solved overnight. Sudden and drastic changes in the long-established practice could work great detriment to community fiscal life; the everlasting temptation to spend may be given free reign; and care must be taken that the *mandamus* process shall not be made the instrument of confusion and the unsettling

of the local economy and even greater inter- and intra-county inequality."

130 A.2d at 22-23.

Of particular significance to the instant case is the further language of the New Jersey Court:

"The problem is one of deep public concern. There is evident apprehension of harsh economic dislocation that may be averted by an orderly any systematic approach to the basic administrative deficiencies in the assessment process, such as are not remediable at one fell swoop but rather by specialized and considered judgment after full inquiry, bearing in mind the new constitutional principle of assessments according to the same standard of value."

130 A.2d at 23.

B. **The historical background attending ad valorem taxation under Article II, Section 28 of the Tennessee Constitution established a long-standing and systematic administrative practice of informal classifications and non-uniformities which were tolerated for many years:—**

From its adoption in 1870 until its amendment in 1973, Article II, Section 28, of the Tennessee Constitution provided for equality and uniformity in property taxation. These provisions did not admit of any direct or indirect classifications based on different species of property.

Notwithstanding these constitutional provisions, however, indirect and informal classifications and distinctions developed in the administration of the property tax laws and were tolerated over many years, and were aided in their perpetuation by presumptions and procedures which had the effect of limiting the grounds available to taxpayers seeking judicial relief from non-uniformity and inequality in property taxation. *E.g., Carroll v.*

Alsup, 107 Tenn. 257, 64 S.W. 193 (1901) (taxpayer could not complain of this assessment being higher than his neighbor's if the taxpayer's property was assessed at less than actual cash value); *Nashville, C.&St.L. Ry. v. Browning*, 176 Tenn. 245, 140 S.W.2d 781 (1940) (State Board of Equalization presumed to have equalized property at actual cash value); *McCord v. Nashville C.&St.L. Ry.*, 187 Tenn. 277, 213 S.W.2d 196 (1948) (court would not nullify legal action of state equalization board in assessing at actual cash value because some local assessors were not obeying the law in local situations). Thus, indirect and informal classifications became embedded and deep-seated as a systematic administrative practice.

The seeming tolerance, if not approval, of such practices came to the attention of this Honorable Court in 1940 when it had before it the question of whether such informal classification in the face of Tennessee's constitutional provisions was offensive to the equal protection clause of the Fourteenth Amendment. *Nashville, C.&St.L. Ry. v. Browning*, 310 U.S. 362 (1940). In answering this question in the negative, a majority of the Court, speaking through Mr. Justice Frankfurter, said:

"Here, according to petitioner's own claim, all the organs of the state are conforming to a practice, systematic, unbroken for more than forty years, and now questioned for the first time. It would be a narrow conception of jurisprudence to confine the notion of 'laws' to what is found written on the statute books, and to disregard the gloss which life has written upon it. Settled state practice cannot supplant constitutional guarantees, but it can establish what is state law. The equal protection clause did not write an empty formalism into the Constitution. Deeply embedded traditional ways of carrying out state policy, such as those of which petitioner complains, are often tougher and true law than the dead words of the written text . . . And if the state supreme court chooses to cover up under a formal veneer of uniformity the es-

tablished system of differentiation between two classes of property, an exposure of the fiction is not enough to establish its unconstitutionality. Fictions have played an important and sometimes fruitful part in the development of law; and the equal protection clause is not a command of candor. Se we are of the opinion that such discrimination, not invidious but long-sanctioned and indeed conventional, would not be offensive to the Fourteenth Amendment simply because Tennessee had reached it by a circuitous road. It is not the Fourteenth Amendment's function to uproot systems of taxation inseparable from the state's tradition of fiscal administration and ingrained in the habits of its people."

310 U.S. at 369-370.

Subsequent to the decision in *Browning*, the Supreme Court of Tennessee showed little inclination to review on the merits the railroads' claims of tax discrimination in relation to locally assessed properties. Such disinclination was affirmatively demonstrated in *McCord v. Nashville, C&St.L. Ry., supra*, the Tennessee Supreme Court noting that:

> "It is next insisted that because the Board did not change the Commission's assessment figures, that it did not perform its function of equalization. It is insisted that the Board approved an assessment of the Railroad's distributable properties at 100 per cent of their full and actual value, whereas local assessments of individual properties in counties were approved though made at varying percentages less than 100 per cent. We find no fact in the present record legally to distinguish the question as here presented from the same argument which has been made, and without exception, decided against the taxpayer in many of our reported cases since the Constitution of 1870 presented the dilemma (Art. II, sec. 29) that 'all assessments should be equal and uniform' and yet 'that every

> species of property should be assessed at its actual cash value.' "

187 Tenn. at 291, 213 S.W.2d at 203.

In 1966 the long-standing tolerance of informal classifications of property for tax purposes came to an abrupt end. Such classifications and non-uniformities were declared by both state and federal courts to be constitutionally offensive. *Southern Ry. Co. v. Clement*, 57 Tenn. App. 54, 415 S.W.2d 146 (1966); *Louisville & N. R. Co. v. Public Service Comm'n*, 249 F.Supp. 894 (M.D. Tenn. 1966), *aff'd* 389 F.2d 247. In the *Southern Railway* case, the Court of Appeals of Tennessee held that a taxpayer could seek to have properties which were assessed at a lesser percentage of actual cash value than his own raised to his level of assessment even though his property may have been assessed at less than actual cash value. This holding represented a distinguishing of, if not a departure from, the prior holding of the Tennessee Supreme Court in *Carroll v. Alsup, supra*. In the *Louisville & N. R. Co.* case, the federal district court upon a finding of unconstitutionality, seemed to direct a reduction in the railroad's assessment, observing that the raising of the assessments of other taxpayers was not an adequate remedy. In its decision, the federal district court severely limited the application of the holding in *Nashville, C.&St.L. Ry. v. Browning, supra.*

With the rendering of these decisions, the State was faced with the problem of conforming with the judicial decisions strictly applying the provisions of the State's Constitution while maintaining the fiscal integrity of its local political subdivisions which had become reliant upon long-standing and systematic administrative classification practices in property taxation.

C. The legislative response in Tennessee to the compelling need for reform in property tax administration confronted the broad problem of reform in addition to the problem of accomplishing an orderly transition from an unconstitutional tax administration system to a constitutional one:—

In 1967, the Tennessee General Assembly enacted a property tax reform package embodied in Chapters 325, 326 and 328 of the 1967 Tennessee Public Acts.[1] In substance, these Acts were designed to provide a framework for an orderly transition to uniformity in taxation over a reasonable period of time through a state-wide property reappraisal and tax revaluation program and a legislatively directed system of incremental local assessment ratio increases designed to achieve equality and uniformity at 50% of value in 1973.

Chapter 325 of the 1967 Tennessee Public Acts contains within its provisions a vestige of property tax classification in that properties centrally assessed by the Tennessee Public Service Commission (including the railroad properties of petitioners) were to be assessed at 50% of value while the assessment of locally-assessed properties was permitted to be at lower ratios of assessment to value for a five-year period from 1968 through 1972.

D. Any classifications inherent in the provisions of Chapter 325 are reasonable and do not contravene the equal protection clause of the Fourteenth Amendment:—

It seems well-settled under federal law that a state has wide power to establish classifications for purposes of taxation, and that to offend the equal protection clause of the Fourteenth Amendment such classifications must be palpably arbitrary,

[1] A correct copy of the relevant parts of Chapter 325, 1967 Tenn. Pub. Acts, is included in the appendix to the petition. Correct copies of Chapters 326 and 328, 1967 Tenn. Pub. Acts, are included in the appendix hereto as Appendix A and Appendix B, respectively.

resting on no reasonable consideration of difference or policy. *E.g., Lehnhausen v. Lake Shore Auto Parts Co.*, 410 U.S. 356 (1973); *Allied Stores of Ohio v. Bowers*, 358 U.S. 522 (1959); *Nashville, C.&St.L. Ry. v. Browning*, 310 U.S. 362 (1938).

The potential classification inherent in Chapter 325 is between property assessed at the state level by the Public Service Commission at 50% of value, and locally assessed property at minimum percentages of value increasing incrementally each year to reach 50% of value in 1973. If the position is taken that this method is a reasonably permissible one to effect an orderly transition to equality and uniformity within a reasonable time, then the accomplishment of the transition would serve as the reasonable basis for the classification. In other words if the method of accomplishing the transition is deemed reasonable and the classification is a part of that method, then the classification would rest on a reasonable basis consistent with the equal protection clause.

It is noteworthy in this respect to observe that this Honorable Court in *Nashville, C.&St.L. Ry. v. Browning*, 310 U.S. 362 (1940), did not view the prior administrative practice of informal classifications, which were characterized by the Court as having been established under a "veneer of uniformity," as violative of the equal protection clause. The Court said that even "an exposure of this fiction (or uniformity) is not enough to establish its unconstitutionality." 310 U.S. at 369-370.

II

Federal Due Process Does Not Require the Supreme Court of Tennessee to Review the Merits of a Holding of an Intermediate Court Based on Procedural Grounds Where the Supreme Court Concurs Only in the Results of That Holding.

Petitioners have appeared in three separate state tribunals seeking judicial review of the administrative determination of

their respective property tax assessments for the year 1968, contending that such assessments, made in accordance with the transitional provisions of Chapter 325, 1967 Tennessee Public Acts, violated the uniformity and equality provisions of the Tennessee Constitution and, correspondingly, deprived them of the equal protection of the laws contrary to the fourteenth amendment to the United States Constitution.

Petitioners first appeared in the Chancery Court for Davidson County, Tennessee. That Court fully reviewed the merits of the respective positions of the parties and rendered a substantial opinion determining that the petitioners' petitions should be dismissed. (Appx. 1a-17a). Petitioners appealed this decision to the Court of Appeals of Tennessee, and the Court of Appeals sustained the dismissal of the petitions on procedural grounds not raised in the Chancery Court.[2] Petitioners next filed petitions for writs of certiorari in the Supreme Court of Tennessee. The Supreme Court denied the petitions, but concurred only in the results reached by the Court of Appeals.

By concurring in results only, the Supreme Court approved none of the reasoning or grounds upon which the Court of Appeals' decision was based. Therefore, respondents maintain that the ultimate denial of relief did not flow from the procedural ground contained in the opinion of the Court of Appeals.

The due process clause of the fourteenth amendment does not require a state to provide appellate review where a full and fair trial on the merits is provided. *Lindsey v. Normet*, 405 U.S. 56 (1972). However, when an appeal is afforded, it cannot be

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[2] Petitioners assert in their petition that the procedural ground relied upon by the Court of Appeals in support of its decision is novel and unsupported by prior law. However, the novelty of this ground is diminished when viewed in light of the former provisions of TENN. CODE ANN. § 67-929 (1955) (now TENN. CODE ANN. § 67-933) requiring payment under protest in order to obtain a refund, and the interpretation of similar statutory provisions in *Illinois Central R. Co. v. Garner*, 193 Tenn. 91, 241 S.W.2d 926 (1951).

arbitrarily denied to some litigants and granted to others. *Id.* In this case, respondents maintain that petitioners were afforded an appeal and that an ultimate denial of relief should not be equated with a denial of an appeal. A review on the merits by the Supreme Court of Tennessee under a writ of certiorari to the Tennessee Court of Appeals was not essential to observe petitioners' due process rights in the appellate process where the Supreme Court concurred in the results reached by the Court of Appeals.

CONCLUSION

For the foregoing reasons, respondents respectfully submit that the petition for a writ of certiorari should be denied.

Respectfully submitted,

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APPENDIX

APPENDIX A

Chapter 326 of the Tennessee Public Acts of 1967

AN ACT to provide for a statewide reappraisal and tax revaluation program of certain property in the State of Tennessee and to provide for the financing and the use thereof.

WHEREAS, there has been found to exist great inequalities in the assessments of individual owners of property in most of the counties of the State of Tennessee, so that the reported median assessment ratio cannot be relied upon as a guide to any common level of assessments within the county and the median assessment ratios themselves vary widely among the various counties; and

WHEREAS, the equality and uniformity of assessment required by the Constitution cannot be completely and fairly achieved without reappraisal and revaluation of property;

Be it enacted by the General Assembly of the State of Tennessee:

SECTION 1. There shall be made as promptly as possible a reappraisal or revaluation of all real property for taxation in every county and city of Tennessee which has not had such reappraisal subsequent to January 1, 1965, unless the State Board of Equalization shall determine that reappraisal is unnecessary for a particular county. There shall also be a reappraisal or revaluation of all personal property or classes of personal property which the State Board of Equalization shall determine requires reappraisal to conform to legal standards. The assessment rolls shall be prepared and property shall be reappraised, including ownership mapping, in every city and county, in accordance with standards, rules and regulations formulated by the Division of Property Assessments and approved by the State Board of

Equalization. State funds shall not be obligated or advanced toward the cost of any reappraisal which is not made in such manner and according to such standards as shall be approved by the State Board of Equalization. There shall also be a reappraisal or revaluation of all property assessed by the Public Service Commission. The State Board of Equalization is authorized and directed to establish rules and procedures for the appraisal of localized properties, and the Public Service Commission is hereby authorized and directed to enter into contracts or to make such arrangements as are necessary for the competent appraisal of all real estate and tangible property of such public utilities located in each of the ninety-five (95) counties of Tennessee, said appraisals to be made in an orderly manner over the next five (5) years concurrently with the reappraisal of locally assessed properties.

* * * * * * *

Section 4. After a reappraisal program has been completed, the assessor shall use the values so determined in making assessments and in equalizing assessments for the ensuing year, but the assessor and the boards of equalization may adjust individual assessments in accordance with other facts and information relevant to the proper assessment of the property. No such changed assessments for individual taxpayers shall result in inequality or destroy the uniformity of assessment intended to be achieved by the reappraisal program.

In the event the assessor shall fail to equalize on the basis of the completed reappraisal program, together with other proper considerations in individual cases, it shall become the duty of the county board of equalization immediately to do so in order that equality and uniformity of assessment may be achieved.

It shall be the duty of the State Board of Equalization to determine whether standards set by it have been met in each county reappraisal program, and whether such reappraisal program, when completed, has been adopted and used as the basis of the

new assessments in such county. In the event such reappraisals have not been made the basis of the new assessments in the county, in accordance with the provisions in this Act, it shall be the duty of the State Board of Equalization to direct and order that there be an equalization in such county based upon such reappraisal program and other proper considerations brought to the attention of the Board; and the State Board in such cases shall itself make the necessary adjustments in the amount of individual assessments on the roll, and issue other appropriate orders as may be necessary, to accomplish the purpose and mandate of this Act.

Section 5. The State Board of Equalization is authorized to make rules and regulations for the administration of this Act and said Act shall be administered by the State Division of Property Assessments.

Section 6. This Act shall take effect from and after its passage, the public welfare requiring it.

Passed: May 25, 1967.

FRANK C. GORRELL
Speaker of the Senate

JAMES H. CUMMINGS
Speaker of the House of Representatives

Approved: May 26, 1967.

BUFORD ELLINGTON
Governor

APPENDIX B

Chapter 328 of the Tennessee Public Acts of 1967

AN ACT relating to the training and licensing of local assessors of property; authorizing certain counties to act jointly in the employment of a local assessor; providing for the consolidation of all local assessment functions in the office of county assessor of property; amending Sections 67-4701 through 67-4714, Tennessee Code Annotated, so as to transfer to the assessor of property the duty of making Merchants' Ad Valorem assessments; providing for minimum compensation to be paid county assessors of property; authorizing the State Board of Equalization to make rules and regulations; to amend all laws or parts of law in conflict herewith; and for related purposes.

Be it enacted by the General Assembly of the State of Tennessee:

Section 1. Except as hereinafter provided, county assessors of property shall be elected by the people on the first Thursday in August, 1968, and thereafter every four years, except in counties where by a vote of the people it has been determined to have an appointed assessor. The quarterly county court or other governing body of every county is authorized by proper resolution to submit to vote of the people the question of whether there shall be an appointed assessor of property for that county. When a local governing body has determined to submit to vote of the people the question of whether to have an appointed assessor of property, such question, as worded in the resolution adopted by the quarterly county court, shall be submitted to a referendum election to be held on the first date thereafter more than thirty (30) days subsequent to the passage of the resolution on which a general election is held in the

county. In the event a referendum vote by the people shall favor the selection of an appointed assessor, then the county judge or chairman of the court or quarterly county court as may be specified in said resolution, shall appoint an assessor for a term beginning on the date when the term of the incumbent assessor shall expire by law, and subject to such terms, tenure and conditions of employment and civil service or job security provision as may be specified or authorized by said resolution.

Section 2. To assure that the assessment functions will be performed in a professional manner by competent assessors, meeting clearly specified professional qualifications, the State Board of Equalization is authorized and directed to prescribe educational and training courses to be taken by assessors and their deputies, and to specify qualification requirements for certification of anyone who is to be engaged to appraise and assess property for the purpose of taxation. The State Board of Equalization may authorize the Division of Property Assessments to administer this function under the control and supervision of the State Board, to specify the certification requirements of persons who are to be certificated as qualified as local assessor of property and to prescribe qualifications of those who are to be certified as qualified to act as deputy assessors. Any specifications or qualifications which shall be determined upon as a prerequisite to receiving and holding a certificate from the State Board of Equalization as qualified to be an assessor or a deputy assessor of property shall be approved and promulgated by the State Board of Equalization.

Section 3. The State Board of Equalization shall also have the power and the duty, immediately to prescribe the educational and training courses to be taken by assessors and their deputies with a long range view of gradually raising the professional standards and qualifications required, and shall have the power and duty to issue certificates to those it has found to be qualified to be assessors and deputy assessors on the basis

of their successful completion of such educational and training courses.

The State Board of Equalization, subject to proper rules and regulations to be published and furnished to every assessing official, shall have the power to invalidate the certificate of any assessor or deputy assessor who willfully fails or refuses faithfully to perform his duties in accordance with the rules, regulations and instructions promulgated and issued by the State Board of Equalization, its manuals of assessment and the laws of the state governing the assessment of property and the duties of each assessor and deputy assessor.

Section 4. The State Board of Equalization, out of funds available to it by appropriation, may enter into contracts with educational or professional institutions or organizations conducting schools and field training courses for all Tennessee assessors and their deputies in keeping with standards and qualifications adopted or to be adopted.

Section 5. The assessor of property of each county or metropolitan government shall receive as compensation an annual salary of not less than provided by Chapter 223 of the Public Acts of 1967 or as may hereafter be provided by law for the county trustee.

The legislative or governing bodies of counties and metropolitan governments may from time to time increase the compensation of assessors as may, in their judgment, be necessary and proper in order to attract or retain the services of assessors of professional competence, technical skills and needed administrative abilities, any private acts, charter provisions or other legal restrictions to the contrary notwithstanding.

Out of any funds available to the State Board of Equalization or the Division of Property Assessments, the State Board may provide incentive increases of compensation for those asses-

sors and their deputies who successfully complete certain courses of study and field training and attain certain levels of increased competence and technical skills as prescribed and provided by the State Board of Equalization.

Any assessor or deputy assessor who has completed the necessary courses of study and training and has been designated by the International Association of Assessing Officers as a "Certified Assessment Evaluator" shall receive from the State out of funds appropriated and provided to the Division of Property Assessments or State Board of Equalization, additional compensation of not less than Five Hundred Dollars ($500.00) per annum, or ten per cent (10%) of his normal annual salary otherwise provided by law, but not to exceed One Thousand Dollars ($1,000.00) per annum under rules established by the State Board of Equalization.

Section 6. In any county or counties where the number of parcels to be assessed shall be less than the minimum number which the State Board of Equalization shall have determined to be requisite for economical, efficient and appropriate administration under the jurisdiction of an assessor of property, the county, acting under contract authorized by its quarterly county court, may make joint arrangements with an adjoining county or counties for the election or employment or an assessor to serve the entire area of the two or more counties, as may be necessary to make up a jurisdiction large enough to justify the employment of a competent appraiser and staff to do a professional type job.

Section 7. As soon as practicable, and in no event later than September 1, 1972, all municipal and other assessment offices shall be consolidated with the office of county assessor and thereafter there shall be only one assessment office in each county and a single roll shall be furnished by the county assessor of property at the cost of reproduction for use by all taxing jurisdictions within the county.

Said consolidation of assessment offices may take place at a date earlier than September 1, 1972, after the reappraisal program for that county has been completed and whenever the quarterly county court shall adopt a resolution with respect to such consolidation upon request by the governing body of any other taxing jurisdiction located within such county.

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Section 9. It is declared to be the legislative intent that this Act be liberally construed in favor of jurisdiction and powers conferred upon the Division of Property Assessments and the State Board of Equalization, and they and each of them shall have and exercise all such incidental powers as may be necessary to carry out and effectuate the objectives and purposes of this Act and to equalize the assessment of all property subject to taxation as provided by law.

Section 10. If any provision or section of this Act be held unconstitutional, it is declared to be the legislative intent that the Act shall be construed to severable in its provisions and the remaining portions of the Act shall continue in force and effect.

Section 11. This Act shall take effect from and after its passage, the public welfare requiring it.

Passed: May 25, 1967.

Frank C. Gorrell,
Speaker of the Senate.
James H. Cummings,
Speaker of the House of Representatives.

Approved: May 26, 1967.

Buford Ellington,
Governor.